

4. Environmental Impact Statement (EIS)

- | | | |
|------|---|--|
| 4.1. | Overview | approves it. |
| 4.2. | Draft Environmental Impact Statement (DEIS) | 3. DOT&PF revises the DEIS and prepares the Final EIS after comments from public & agencies. |
| 4.3. | Final EIS | 4. FHWA approves the Final EIS. |
| 4.4. | Distribution of Final EIS | 5. FHWA issues the Record of Decision (ROD). |
| 4.5. | ROD | |
| 4.6. | Supplemental EISs | |

4.1. Overview

Prepare an EIS for actions that significantly affect the human environment as defined by CEQ regulations. The types of actions that would normally require an EIS are:

- A new controlled-access freeway
- A highway project of four or more lanes on new location
- New construction or extension of existing highways
- New construction or extension of fixed rail transit facilities
- New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility

The purpose of an EIS is to provide a full discussion of significant environmental impacts resulting from a proposed action. It provides the public and decision makers with reasonable alternatives that meet the project's purpose and need and that could avoid or minimize adverse impacts or enhance the human environment. The EIS must be clear and concise. The focus of the discussion is on significant environmental impacts. Other impact categories are discussed only in enough detail to document why they are not considered significant. All discussions of potentially significant impact categories must be to the point and supported by technical information. Therefore, an EIS is only as long as absolutely necessary, generally no more than 100 pages. More is not necessarily better; it only invites discrepancies, confusion, and misrepresentations.

Following is a broad overview of the steps in the Environmental Impact Statement process:

1. FHWA issues the Environmental Determination.
2. DOT&PF prepares the Draft Environmental Impact Statement (DEIS) and FHWA

4.2. Draft Environmental Impact Statement (DEIS)

4.2.1 *Format and Organization*

- Print the EIS on 8 1/2 x 11-inch paper, with any larger sheets folded to that size.
- Wider sheets should be 8 1/2 inches high and should open to the right with the title or identification on the right. The standard size allows for administrative record keeping.
- Do not show consultant logos on any pages of text, figures, or tables in the EIS.
- Use the following EIS organization for projects with the FHWA Alaska Division as the lead federal agency. This format is consistent with CEQ regulations.
 - A. Title Sheet
 - B. Summary
 - C. Table of Contents
 - D. Purpose of Project and Need for Action
 - E. Alternatives
 - F. Affected Environment
 - G. Environmental Consequences
 - H. List of Preparers
 - I. List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent
 - J. Comments and Coordination
 - K. Index
 - L. Appendices (if any)

Appendix C gives detailed instructions on preparation and content of an EIS.

4.2.2 *Process*

The preparation of the Draft Environmental Impact Statement (DEIS) begins after the Department receives the Authority to Proceed from the Federal Highway Administration (FHWA), which indicates that a DEIS is to be prepared. Concurrent with the preparation of the DEIS, a public involvement

program is developed and subsequently administered in accordance with procedures in Chapter 1.

Preparation of the Notice of Intent

As soon as you decide to prepare an EIS, send a draft Notice of Intent (NOI) to the FHWA. Technical Advisory T6640.8A gives guidelines for preparation of the notice. The FHWA will submit the NOI to EPA for publication in the *Federal Register* (FR). This will announce that we will be preparing an EIS.

Intradepartmental and FHWA Review Process

After preparation of the DEIS, the regional environmental coordinator submits two copies to the FHWA area engineer and one copy to each functional group to initiate review of the DEIS. If there are cooperating federal agencies, or if the DEIS is prepared under the terms of the "Interagency Working Agreement" (i.e. NEPA/404 Merger), the regional environmental coordinator provides one copy of the DEIS to each agency for their review and comment.

Post-Approval Procedures

FHWA forwards one copy of the approved DEIS and a transmittal letter to the regional environmental coordinator. There are two dates on the front cover page of the DEIS. One is the date of approval of the DEIS for public availability. The second date, at the bottom of the cover page, is the ending date for the formal review period. This date is set by calculating 55 calendar days from the date anticipated for the published *Federal Register* (FR) notice of document availability provided by EPA in compliance with 23 CFR 771.123. A minimum of 45 days is required. You should provide an additional 10 days in case the notice of availability is not published on the date anticipated.

In order for EPA to publish a notice of document availability in the FR, they need 9 days lead time. The regional environmental coordinator must ensure that EPA receives the DEIS copies by Wednesday afternoon of the week prior to publication in order to assure publication in the FR on Friday of the following week. EPA requires five (5) copies of the approved DEIS. Mail them to EPA, Washington, D.C. via overnight express requiring a signature by the addressee (EPA) verifying receipt. Use of overnight mail will ensure that the last day of the 45-day comment period stamped on the bottom of the DEIS will be correct based on the FR notice date.

You should determine an appropriate number of documents to make available for review. Generally, a

minimum of 100 copies of the DEIS should be printed for public availability and inspection and distribution to federal and state agencies. You should provide the DEIS to state and federal resource agencies, local agencies and public interest groups and the public who have asked for a copy of the DEIS. Distribution of the DEIS takes place at the same time as submission to EPA, Washington, D.C.

Also, the regional environmental coordinator places a notice in the local newspaper(s) to advertise 1) a public hearing, 2) that the approved document is available for public review, and 3) a list of places where the approved document can be inspected by the public. The DEIS must be available for public review at least 21 days prior to the public hearing. The public hearing is held after a minimum of 21 days after notification of public availability is placed in the local newspapers. After the public hearing has been held and all issues have been resolved, where possible, the regional environmental coordinator prepares a Final EIS (FEIS).

4.3. Final EIS

In the Final EIS (FEIS), you must

1. Identify and describe the preferred alternative and the basis for the decision
2. Demonstrate compliance to the greatest extent possible with all applicable environmental laws and executive orders
3. Provide reasonable assurance that the requirements can be met
4. Include copies of comments received and responses (if comments are voluminous they may be summarized)
5. Note where the EIS was changed in response to comments (this change should be referenced in the response)
6. State any other changes or corrections

The Alaska Division Office usually approves the FEIS; however, prior concurrence by the Washington Headquarters Office is required on certain types of projects and under certain conditions [see 23 CFR 771.125(c)].

The CEQ regulations place heavy emphasis on reducing paperwork, avoiding unnecessary work, and producing documents that are useful to decision makers and to the public. With these objectives in mind, three different approaches to preparing final

EISs are presented below. The traditional and condensed approaches can be employed on any project. The abbreviated approach is restricted to the conditions specified by CEQ (40 CFR 1503.4[c]).

Traditional and Condensed Approaches

Traditional

Under this approach, the FEIS incorporates the DEIS (essentially in its entirety) with changes made as appropriate throughout the document to reflect the selection of an alternative, modifications to the project, updated information on the affected environment, changes in the assessment of impacts, the selection of mitigation measures, wetland and floodplain findings, the results of coordination, comments received on the DEIS and responses to these comments, etc. Since so much information is carried over from the draft to the final, important changes are sometimes difficult for the reader to identify. Nevertheless, this is the approach most familiar to participants in the NEPA process.

Condensed

This approach avoids repetition of material from the DEIS by incorporating it by reference. The FEIS is, thus, a much shorter document than under the traditional approach; however, it should afford the reader a complete overview of the project and its impacts on the human environment.

The crux of this approach is to briefly reference and summarize information from the DEIS that has not changed and to focus the FEIS discussion on changes in the project, its setting, impacts, technical analysis, and mitigation that have occurred since the DEIS was circulated. In addition, the condensed FEIS must identify the preferred alternative, explain the basis for its selection, describe coordination efforts, and include agency and public comments, responses to these comments, and any required findings or determinations (40 CFR 1502.14[e] and 23 CFR 771.125(a)).

Format

The format of the FEIS should parallel that of the DEIS. Each major section of the FEIS should briefly summarize the important information contained in the corresponding section of the DEIS, reference the section of the DEIS that provides more detailed information, and discuss any noteworthy changes that have occurred since the DEIS was circulated.

Abbreviated Approach

The CEQ regulation (40 CFR 1503.4[c]) provides the opportunity to expedite the FEIS preparation where the only changes needed in the document are minor and consist of factual corrections and/or an explanation of why the comments received on the DEIS do not warrant further response. Coordination with the FHWA environmental/realty specialist will determine if the abbreviated approach is applicable for a specific project. When using the abbreviated approach, exercise care to assure that the DEIS contains sufficient information to make the findings in (2) below, that the number of errata sheets used to make required changes is small, and that these errata sheets together with the DEIS constitute a readable, understandable, full disclosure document.

Format

The FEIS should consist of the DEIS and an attachment containing the following:

1. Errata sheets making any necessary corrections to the DEIS
2. A section identifying the preferred alternative and a discussion of the reasons it was selected. Also include in this section where applicable:
 - a. Final Section 4(f) evaluations containing the information described in Section IX of these guidelines
 - b. Wetland and finding(s)
 - c. Floodplain finding(s)
 - d. A list of commitments for mitigation measures for the preferred alternative
3. Copies (or summaries) of comments received from circulation of the draft EIS and public hearing and responses thereto

4.4. Distribution of FEIS

Traditional or Condensed Versions

When the FEIS is circulated, you need not provide an additional copy of the DEIS to those who received a copy when it was circulated. Nevertheless, if, due to the passage of time or other reasons, it is likely that they will have disposed of their original copy of the DEIS, then provide a copy of it with the final. In any case, have sufficient copies of the DEIS on hand to satisfy requests for additional copies. The regional environmental coordinator must file both the DEIS and the condensed FEIS with EPA under a single FEIS cover sheet.

Abbreviated Version

Only the attachment needs to be provided to parties who received a copy of the DEIS, unless it is likely that they will have disposed of their original copy. In that case, provide both the DEIS and the attachment (40 CFR 1503.4[c]). The regional environmental coordinator must file both the DEIS and the attachment with EPA under a single FEIS cover sheet (40 CFR 1503.4[c]).

4.5. Record of Decision (ROD)

The Record of Decision (ROD) will explain the reasons for the project decision, summarize any mitigation measures that will be incorporated in the project, and document any required Section 4(f) approval. While cross-referencing and incorporation by reference of the FEIS (or FEIS supplement) and other documents are appropriate, the ROD must explain the basis for the project decision as completely as possible, based on the information contained in the EIS (40 CFR 1502.2).

Format

You must include the following key items in the ROD:

- A. Decision
- B. Alternatives Considered
- C. Section 4(f)
- D. Measures to Minimize Harm
- E. Monitoring or Enforcement Program
- F. Comments on Final EIS

Appendix C gives detailed instructions on preparation and content of a ROD.

Process

The regional environmental coordinator prepares a draft ROD and submits it to the FHWA Environmental Specialist with the FEIS. The FHWA will finalize the ROD and approve and sign it along with the final EIS.

The regional environmental coordinator must then publish a notice of availability in a newspaper with general distribution and in the Alaska Administrative Journal. The notice must specify that the public has 30 days to appeal the ROD to the FHWA.

After the FHWA has approved the ROD, the FHWA sends a copy of the signed ROD to the regional environmental coordinator and to the FHWA

Washington Headquarters (HEV-11). A ROD cannot be issued sooner than 30 days after the approved FEIS is distributed, nor 90 days after the DEIS is circulated.

4.6. Supplemental EISs

Whenever there are changes, new information, or further developments on a project that result in significant environmental impacts not identified in the most recently distributed version of the draft or final EIS, a Supplemental EIS is necessary (40 CFR 1502.9[c]). If the regional environmental coordinator and the FHWA environmental specialist determine that the changes or new information do not result in new or different significant environmental impacts, the FHWA division administrator should document the determination. (After FEIS approval, this documentation could take the form of notation to the files; for a DEIS, this documentation could be a discussion in the FEIS.)

Format and Content

There is no required format for a Supplemental EIS. It should provide sufficient information to briefly describe the proposed action, the reason(s) why a supplement is being prepared, and the status of the previous DEIS or FEIS. The Supplemental EIS needs to address only those changes or new information that are the basis for preparing the supplement and that were not addressed in the previous EIS (23 CFR 771.130[a]). Referencing and summarizing the previous EIS is preferable to repeating unchanged, but still valid, portions of the original document. For example, items such as affected environment, alternatives, or impacts that are unchanged may be briefly summarized and referenced. New environmental requirements that became effective after the previous EIS was prepared need to be addressed in the Supplemental EIS to the extent they apply to the portion of the project being evaluated and are relevant to the subject of the Supplement (23 CFR 771.130[a]). Additionally, to provide an up-to-date status of compliance with NEPA, we recommend that the supplement summarize the results of any re-evaluations that have been performed for the entire proposed action or portions thereof. By this inclusion, the supplement will reflect an up-to-date consideration of the proposed action and its effects on the human environment. When referencing a previous EIS, the supplemental EIS transmittal letter should indicate that copies of the original (draft or final) EIS are available and will be provided to all requesting

parties.

Distribution

A Supplemental EIS is reviewed and distributed in the same manner as a DEIS and FEIS (23 CFR 771.130[d]). (See Sections 4.2 and 4.4 of this manual.)